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Alaska Bar # 9811075

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)	No. 3:05-CR-0041-RRB
)	
Plaintiff,)	
)	
vs.)	<u>GOVERNMENT'S</u>
)	<u>SENTENCING</u>
)	<u>MEMORANDUM</u>
SHANE C. TWIGG,)	
)	
Defendant.))	

COMES NOW the United States Attorney's Office, by and through counsel, and respectfully submits this Sentencing Memorandum regarding the defendant, SHANE C. TWIGG, who is scheduled to be sentenced on November 29, 2006. For the reasons provided below, the government for the most part concurs with the recommendations made by the final presentence report ("PSR") and, pursuant to a previous agreement with counsel for defendant, recommends a sentence of 30 months.

I. BACKGROUND

On September 20, 2006, the defendant pled guilty to the following count of the Indictment: Resisting a Federal Officer and Inflicting Bodily Injury in violation of 18 U.S.C. §§ 111(a)(1) and (b). During his plea colloquy, Twigg admitted that in March of 2005 he assaulted, resisted, and impeded his arrest by members of the U.S. Marshal's Alaska Fugitive Task Force engaged in the performance of their official duties.

II. SENTENCING CALCULATION

A. Statutory Maximum Sentence

The maximum sentence that may be imposed on the defendant for Count 1 of the Indictment is twenty (20) years imprisonment, a \$250,000 fine, three (3) years of supervised release, and a \$100 special assessment.

B. Sentencing Guidelines Calculation

The guideline imprisonment range pursuant to the United States Sentencing Guidelines is 33-41 months.

III. GOVERNMENT'S SENTENCING RECOMMENDATION

The government respectfully recommends that the court impose a sentence of 30 months.

In March of 2005, at the time the officers found him, Twigg had four outstanding warrants for his arrest. Twigg told the officers he had been out for a

year knowing he had warrants for his arrest. He also said he had been expecting them. Nevertheless, Twigg resisted his arrest and struggled with the officers. Using his substantial height and weight advantage, Twigg pushed the officer aside and attempted to flee. The officer was able to apprehend Twigg only after he was forced to employ defensive tactics.

As a result of Twigg's actions, he and the officer crashed through two bifold doors and landed half inside a closet. The officer suffered a large laceration on his right arm that eventually became swollen. He also had a puncture wound on his right forefinger. The officer went to Providence Hospital Emergency Room for treatment and evaluation.

Twigg was lawfully subject to arrest. The officers attempted to arrest him. He resisted arrest. During the course of his struggle with one of the officers, the officer suffered bodily injury. This case is very straightforward. There is no need to complicate it.

Based on Twigg's criminal history, which is extensive for his age, a substantial sentence is appropriate. When considering the sentencing factors in 18 U.S.C. § 3553, therefore, a sentence of two and a half years is appropriate. Such a sentence would recognize the seriousness of defendant's offense conduct, afford adequate deterrence to future criminal conduct and, meanwhile, protect the public from further crimes of the defendant.

The government recommends that the defendant be sentenced as follows:

- (1) **30 months in custody;**
- (2) **No fine is requested** due to the defendant's inability to pay;
- (4) **A one (1) year period of supervised release,** and
- (5) **A special assessment in the amount of \$100.00** is, of course, required.

RESPECTFULLY SUBMITTED this 28th day of November, 2006, in
Anchorage, Alaska.

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s/ David A. Nesbett
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CERTIFICATE OF SERVICE

I hereby certify that on November 28, 2006,
a copy of the foregoing was served
electronically on:

Robert M. Herz

s/ David A. Nesbett